

REMARKS

The Final Office Action of March 20, 2009 presents the examination of claims 16-24, 27, 31 and 32. The present paper cancels all but claims 20, 23 and 24. None of these claims are presently rejected, and so the application is believed to be in condition for allowance.

Rejection under 35 USC § 112, first paragraph

Claims 16-24 and 31 are rejected under 35 USC § 112, first paragraph, for lack of adequate written description of the invention. The Examiner asserts that there is no support in the specification as filed for the ranges of fermentability recited in the claims for ranges having a only a lower threshold of "83.6 per 30 g" or "92.4 per 30 g".

Though Applicants do not agree, claims reciting these terms have been canceled, rendering this rejection moot.

Rejection under 35 USC § 112, second paragraph

Claims 16-19, 21-22 and 31-32 are rejected under 35 USC § 112, second paragraph as allegedly being indefinite for the reasons set forth on page 3 of the Final Office Action. These claims are canceled, rendering this rejection moot.

Rejection over prior art

Claims 16-19, 21, 22, 25, 27, 29, 31 and 32 remain rejected under 35 USC § 102(b) as being anticipated by Nakagawa (1994). These claims have been canceled, rendering this rejection moot.

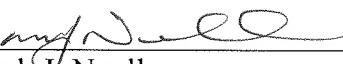
Applicants submit that the presently pending claims have not been rejected, and so believe that the application is in condition for allowance. Such favorable action is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: June 17, 2009

Respectfully submitted,

By:


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